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JAMMU & KASHMIR GOVERNMENT GAZETTE**

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Separate paging is given to this part in order that it may be filed as a separate compilation.

PART III

Laws, Regulations and Rules passed thereunder.

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT – LAW DEPARTMENT

Srinagar, the 16th August, 2002.

THE JAMMU AND KASHMIR REPRESENTATION
OF THE PEOPLE (AMENDMENT) ORDINANCE, 2002

[Ordinance No. III of 2002]

Promulgated by the Governor in the Fifty third Year of the Republic of India.

An ordinance to amend the Jammu & Kashmir Representation of the People Act, 1957.

Whereas, the State Legislature is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, therefore, in exercise of the powers conferred by section 91 of the Constitution of Jammu & Kashmir, the Governor is pleased to promulgate the following Ordinance:-

1. Short title and commencement – (1) This Ordinance may be called the Jammu and Kashmir Representation of the People (Amendment) Ordinance, 2002.

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(2) Section 2 shall be deemed to have come into force on the 2nd day of May, 2002 and other provisions of this Ordinance shall come into force at once.

2. Insertion of new section 44A in Act, IV of 1957. – After section 44 of the Jammu & Kashmir Representation of the People Act, 1957 (hereinafter referred to as ‘the principal Act’), the following section shall be inserted, namely:-

“44A . Candidate to furnish information only under the Act and the rules.— Notwithstanding anything contained in any judgement, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.”.

3. Insertion of new section 44B in Act IV of 1957. – After section 44A of the Principal Act as so inserted, the following section shall be inserted, namely:-

“44B. Right to information.- (1) A candidate shall, apart from any information which he is required to furnish under this Act, or the rules made thereunder, in his nomination paper delivered under sub-section (1) of section 44, also furnish the information as to whether---

- (i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;
- (ii) he has been convicted of an offence [other than any offence referred, to in sub-section (1) or sub-section (2), or covered in sub-section (3) of section 24] and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of section 44 also deliver to him an affidavit sworn by the candidate in the form set out for the purpose in the Schedule to this Act, for verifying the information specified in sub-section (1).

(3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.”

4. Insertion of new section 83A. In Act IV of 1957.- After section 83 of the principal Act, the following section shall be inserted, namely:-

“83A. Declaration of assets and liabilities.- (1) Every member of the Legislature of the State, whether elected or nominated, shall, Within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Fifth Schedule to the Constitution, for taking his seat in the Legislative Assembly of the State or Legislative Council of the State, as the case may be, furnish the information relating to:-

- (i) the movable and immovable property of which he is the owner or a beneficiary;
- (ii) his liabilities to any public financial institution; and
- (iii) his liabilities to the Central Government or the State Government,

to the Chairman of the Legislative Council of the State or the Speaker of the Legislative Assembly of the State, as the case may be.

(2) The information under sub-section (1) shall be furnished in such form and in such manner as may be prescribed in the rules made under sub-section (3).

(3) The Chairman of the Legislative Council of the State or the Speaker of the Legislative Assembly of the State, as the case may be, may make rules for the purposes of sub-section (2).

(4) The rules made by the Chairman of the Legislative Council of the State or the Speaker of the Legislative Assembly of the State under sub-section (3) shall be laid, as soon as may be after they are made before the Council of the Legislative Assembly, as the case may be, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the Legislative Council or the Legislative Assembly and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(5) The Chairman of the Legislative Council of the State or the Speaker of the Legislative Assembly of the State may direct that any wilful contravention of the rules made under sub-section (3) by an elected candidate referred to in sub-section (1) may be dealt with in the same manner

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as a breach of privilege of the Legislative Council or the Legislative Assembly, as the case may be.

Explanation:- For the purposes of this section,-

- (i) “immovable property” means the land and includes any building or other structure attached to the land or permanently fastened to anything which is attached to the land;
- (ii) “movable property” means any other property which is not the immovable property and includes corporeal and incorporeal property of every description;
- (iii) “public financial institution” means a public financial institution within the meaning of section 4A of the Companies Act, 1956 and includes bank; and
- (iv) “bank” referred to in clause (iii) means –
 - a) “State Bank of India” constituted under section 3 of the State Bank of India Act, 1955;
 - b) “subsidiary bank” having the meaning assigned to it in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;
 - c) “Regional Rural Bank” established under section 3 of the Regional Rural Bank Act, 1976;
 - d) “Corresponding new bank” having the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949; and
 - e) “co-operative bank’ having the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949 as modified by sub-clause (i) of clause (c) of section 56 of that Act.

5. Insertion of new section 132 AA in Act IV of 1957 – After section 132 A of the principal Act, the following section shall be inserted, namely :-

“132AA. Penalty for filing false affidavit etc:- A candidate who himself or through his proposer, with intent to be elected in an election :-

- (i) fails to give information relating to sub-section (1) of section 44B; or
- (ii) gives false information which he knows or has reason to believe to be false ; or

(iii) conceals any information.

in his nomination paper delivered under sub-section (1) of section 44 or in his affidavit which is required to be furnished therein under sub-section (2) of section 44B as the case may be, shall, notwithstanding anything contained in any other law for the time being in force, be punishable, with imprisonment for a term which may extend to six months, or with fine, or with both.

6. Addition of Schedule to Act IV of 1957 ----- After section 170 of the principal Act, the following Schedule shall be added, namely:-

SCHEDULE
[See section 44B (2)]

Affidavit to be furnished by candidate along with nomination paper

Before the Returning Officer for election to-----
(name of the House) from----- Constituency.

I, ----- son/daughter/wife of -----
----- aged ----- years, resident of -----
----- candidate of the above election solemnly affirm/state on oath that the information furnished hereinafter is true and correct to the best of my knowledge and nothing material has been concealed or suppressed :-

1. Whether the candidate is an accused of any offence punishable with imprisonment for two years or more in any pending case in which a charge has been framed by the court of competent jurisdiction Yes/No
(If the answer is ' yes ' the candidate shall furnish the following information) :
 - (i) Case/FIR No./Nos. -----
 - (ii) Police Station ----- District -----
 - (iii) Sections of the Act for which the candidate has been charged -----
 - (iv) Court(s) which framed the charges -----
 - (v) Date on which charge (s) was/were framed -----
 - (vi) Whether the proceedings have been stayed by any court of competent jurisdiction -----

6. The J & K ,Govt. Gazette, 16th Aug., 2002/25th Srav., 1924. [No. 20-1]

2. Whether the candidate has been convicted of an offence (other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section(3) of section 24 of the Jammu and Kashmir Representation of the People Act, 1957) and sentenced to imprisonment for one year or more Yes/No (If the answer is ' yes ' the candidate shall furnish the following information) :-
- (i) Case/FIR No./Nos. -----
 - (ii) Police Station ----- District -----
 - (iii) Date of conviction -----
 - (iv) Court (s) which convicted the candidate -----
 - (v) Punishment (s) imposed (indicate period of imprisonment(s) -----
 - (vi) Date of release from prison -----
 - (vii) Was any appeal/revision filed against the said conviction
Yes/No
 - (viii) Name of the Court before which the appeal/application for revision was filed-----
 - (ix) Whether the said appeal/application for revision has been disposed of or is pending-----

Signature of the Candidate
(Deponent)

VERIFICATION

I, the deponent above named do hereby verify and declare that the content of this affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at ----- this the ----- day of ----- 2002.
Deponent".

Place:
Date:

GIRISH CHANDRA SAXENA,
GOVERNOR,

(sd.) G. H. TANTRAY,

Special Secretary to Government,
Law Department.